

RET. DATE: July 24, 2018	:	SUPERIOR COURT
TIMOTHY BRIGNOLE, TRUSTEE OF THE KIMBERLY EDITH MAYRAND FAMILY TRUST, LLT	:	J. D. of HARTFORD
VS.	:	AT HARTFORD
GRANBY HOMES FOR SENIOR-CITIZENS, INC., UNITED STATES OF AMERICA DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT and TOWN OF GRANBY	:	June 18, 2018

## COMPLAINT

### COUNT ONE

1. Now comes the Plaintiff, Timothy Brignole, Trustee of The Kimberly Edith Mayrand Family Trust, LLT., is a duly organized Trust registered with the secretary of the State of Connecticut and is the owner of the property located at 261 Salmon Brook Street, Granby, CT.

2. The Defendant, Granby Homes for Senior-Citizens, Inc., is a duly organized corporation in the state of Connecticut, with its principal place of business located at 259 Salmon Brook Street engaged in the business of renting subsidized housing to the disabled and elderly in the Town of Granby under the name of Stoney Village. This Defendant will be referred to as "Stoney Village".

3. The United States of America, Department of Housing and Urban Development, having an office at 451 West Street, Amherst, Massachusetts, has subsidized rentals to tenants and provided Stoney Village with a "Corporate Real Estate Mortgage for Ct:, which has been recorded on the Town of Granby Land Records.

4. The Town of Granby is a duly organized municipality in the State of Connecticut, that is registered with the State and has its main offices located at 15 North Granby Road.

5. The USA Government HUD has a mortgage recorded at Volume 320, Page 60 and dated February 17, 2005 along with other mortgages recorded on the property owned by Stoney Village complex and maintains the mortgage on the property, which is the subject of this lawsuit, including land owned by the Plaintiff.

6. The Plaintiff Trust purchased the property at 261 Salmon Brook Street in 2000 and shortly thereafter learned and ascertained that the Defendant Stoney Village had some time in the past installed an MDC sewer line, and a water line on the property owned by the Plaintiff.

7. The Plaintiff predecessor in title may have given Stoney Village verbal license to install said sewer and water lines; however, no written Easement agreement was entered into with Stoney Village.

8. The Defendant, Stoney Village, when it installed the MDC sewer from Salmon Brook Street did so in front of 261 Salmon Brook Street and thereafter running, for over 80 feet on the land owned by the Plaintiff.

9. The Defendant, Stoney Village, also tied in to the Salmon Brook Water District water system in Salmon Brook Street and came off of Salmon Brook Street and entered upon the land of the Plaintiff and crossed the land of the Plaintiff for approximately eighty (80) feet with the Defendant's waterline serving Stoney Village which is in the rear of the Plaintiff's property.

10. Search of the land records and condemnation records, the Defendant, Stoney Village, does not have any right, agreement, privilege, title to construct, maintain, service, repair, keep, use, and occupy sewer and water lines on the Plaintiff's property.

11. The Defendant government has placed its mortgage on the land and access rights to sewer and water that are being denied in this action so the Defendant government is a necessary party.

12. Since the Plaintiff has purchased the property, the Plaintiff has terminated any license and demanded that the Defendant's remove the sewer line, and the waterline from the Plaintiff's property, and cease-and-desist any further

encroachment above the ground, below the ground to either use, maintain, operate, repair, keep, service, or use said systems.

13. The Defendants have failed, refused and neglected said request of the plaintiff to move the sewer and water lines.

14. The Plaintiff has no other remedy at law other than injunctive removal of sewer and water lines.

15. The Plaintiff has served a number of notices upon the defendants seeking such relief of the removal of the encroachment and utilities by injunctive relief.

**COUNT TWO: (Boundary Line Dispute-Stoney Village)**

1-15. Paragraphs One (1) through Fifteen (15) of Count One are hereby incorporated by reference and made Paragraphs One (1) through Fifteen (15) of this Count Two, as if set forth more fully herein.

16. Along the southerly boundary of the Plaintiff's property, Plaintiff's predecessors in title back in time had a red field stone monument placed as the cornerstone for the land at 261 Salmon Brook Street and delineated the boundary of the Plaintiff's land from the Defendant elderly housing complex land.

17. The red field stone monument continues to remain out in the field in it's historical location.

18. The Defendant, Stoney Village back in 1972 at the time they were preparing the use approval for the elderly housing complex, they had a survey prepared of their parcel of land by Igor Vechesloff, surveyor.

19. The Defendant, Stoney Village used Igor Vechesloff, a surveyor, back in 1972 who surveyed the Defendant's, Stoney Village, property and placed a concrete monument on the Plaintiff's property, claiming that the new concrete monument was where the boundary line on the Northern boundary was of the Defendant's property.

20. The Stoney Village surveyor, in 1972, failed to locate the existing Red Stone corner monument that existed in the field.

21. This concrete monument that was placed by the Defendant's surveyor is exactly 2.2 feet north of the field stone monument.

22. The surveyor for the Defendant thereafter as he surveyed along the southerly boundary of the plaintiff's property remained a full 2.2 feet to the north of the actual boundary, thereby claiming that the defendants boundary was 2.2 feet north of where it actually was.

23. The Defendant, Stoney Village, has given the United State of America a mortgage using this inaccurate description (see attached Exhibit A. "HUD Mortgage Description").

24. The Defendant has utilized its boundary in its northerly location in order to configure its parking, roads and buildings to put them in compliance with zoning regulations.

25. This mistake has caused the defendants encroachment to now create nonconforming uses to the zoning regulations of the Defendant's property Elderly Housing Complex property.

26. The Plaintiff seeks to Quiet title as to this area in dispute between the two surveys and seeks a correction in the description being used in the Defendant's Mortgage, which encumbers the Plaintiff's land, in accordance with C.G.S. § 47-31 and 47-34.

**COUNT THREE: (Adverse Possession - Stoney Village and USA-HUD)**

1-26. Paragraphs One (1) through Twenty-Six (26) of Count Two are hereby incorporated by reference and made Paragraphs One (1) through Twenty-Six (26) of this Count Three, as if set forth more fully herein.

27. The Plaintiff owns the dwellings located at 6 Morgan Street and 8 Morgan Street.

28. Morgan Street is a private road which services only these 2 homes since they were built back in the 1920s and 1950s.

29. The public, tenants and residents of Morgan Street have passed, parked and used Morgan openly, notoriously and continuously to the exclusion of the Defendant, Stoney Village for over 50 years.

30. There is a fence at the end of Morgan Street that prohibits any travel past 8 Morgan Street and barricades the land of Stoney Village beyond the fence.

31. The residences on Morgan Street are all situated on the easterly side of Morgan Street and the westerly side of Morgan Street has no access to any properties.

32. The building owners of Morgan Street have solely maintained the area of the road bed open, notoriously and continuously for more than fifteen (15) years adverse to the Defendants.

33. The Plaintiff claims to have adverse possession of all of Morgan Street, said street is a private road so Plaintiff claims the entire width of the fifty (50) road bed.

34. The Defendant has give USA-HUD a Mortgage upon this land, which is owned by Plaintiff and Plaintiff seeks removal of said encumbrance by order of this Court.

35. The Defendant, Stoney Village, claims they have ownership of Morgan Street in front of 6 & 8 Morgan Street.

**COUNT FOUR: (United States of America - HUD)**

1-35. Paragraphs One (1) through Thirty-Five (35) of the Third Count is hereby incorporated by reference and made Paragraphs One (1) through Thirty-Five (35) of this Count Four, as if set forth more fully herein.

36. The United States of America, Department of Housing and Urban Development is the organization which has funded, financed, and paid for the construction of the elderly housing complex over time and has a mortgage interest in the land of the defendant and upon the Plaintiff's land.

37. The Defendant elderly housing complex has a mortgage with HUD which has been recorded on April 26, 2005 in the Town of Granby Land Records at Volume 320, Page 60.

38. The Plaintiff claims that this mortgage encumbers land of the Plaintiff, as well as describing a vested interest in the property of the Plaintiff and is a party to the encroachment of the sewer and water lines.

39. The Plaintiff seeks an injunction against the United States of America correcting the Mortgage description to remove the encroachment and injunction from using the sewer and water lines without authority or rights to do so.



**COUNT FIVE: (Town of Granby)**

1-15. Paragraphs One (1) through Fifteen (15) of Count One are hereby incorporated by reference and made Paragraphs One (1) through Fifteen (15) of this Count Five, as if set forth more fully herein.

16. On or about June 1988, the Town of Granby obtained from the Defendant, Stoney Village an easement to use the elderly housing complex sewer and water lines for the town hall and the police department buildings.

17. The Town of Granby is using the same sewer and water lines as the elderly housing complex and therefore is a party to the encroachment and further burdens the use of the sewer and water.

18. The Plaintiff has notified the Town of such encroachment and use and requested that the Town cease-and-desist from engaging in this activity any further.

19. The Defendant, Town of Granby continues to use and operate their use of the sewer and water lines involved in this encroachment.

20. The Plaintiff seeks an injunction permanently prohibiting the Defendant Town of Granby from using these sewer and water lines that encroach upon the Plaintiff's lands.

**COUNT SIX: (Trespass as to all Defendants)**

1-20. Paragraphs One (1) through Twenty (20) of Count Five are hereby incorporated by reference and made Paragraphs One (1) through Twenty (20) of this Count Six, as if set forth more fully herein.

21. The Defendants, through their use of the sewer and water over the land of the Plaintiff, is a trespass for which the Plaintiff seeks damages.

**COUNT SEVEN: (Private Nuisance)**

1-20. Paragraphs One (1) through Twenty (20) of Count Five are hereby incorporated by reference and made Paragraphs One (1) through Twenty (20) of this Count Seven, as if set forth more fully herein.

21. The continued use of the Plaintiff's land by the Defendants has interfered with the Plaintiff's use of all of its land for signs, parking, building, fences.

22. The continued use of the Plaintiff's land by the Defendants has interfered with the Plaintiff's enjoyment of all the Plaintiff's land.

23. This use by the Defendant has impacted the value of the Plaintiff's land.

24. The Defendants, Stoney Village and the Town of Granby, send sewage and toxic liquids through the Plaintiff's property without Plaintiff's permission.

25. The Defendants fails and refuse to compensate the Plaintiff for this nuisance they cause on the Plaintiff's property.

**COUNT EIGHT: (Property Damage as to all Defendants)**

1-20. Paragraphs One (1) through Twenty (20) of Count Five are hereby incorporated by reference and made Paragraphs One (1) through Twenty (20) of this Count Eight, as if set forth more fully herein.

21. The Defendants have negligently installed, uses continuously, maintains and services sewer lines on Plaintiff's land without permission.

22. The Defendants have negligently granted others to use these sewer lines without the Plaintiff's permission explaining the encroachment.

23. The Defendants negligent use has caused economic losses to the value of the Plaintiff's land and the land loss of use and loss of revenue attributed to Defendants' use.

24. The Defendants should pay to Plaintiff a usage fee based upon the Defendant, Stoney Village, and their co-user Town of Granby, based upon their MDC usage of sewage crossing the Plaintiff's land.

25. The Plaintiff seeks economic damages from these Defendants, Stoney Village and Town of Granby, for the reasonable value of usage of the sewer and water usage over Plaintiff's land.

**COUNT NINE: (Morgan Street Easement by Implication)**

1-35. Paragraphs One (1) through Thirty-Five (35) of Count Three are hereby incorporated by reference and made Paragraphs One (1) through Thirty-Five (35) of this Count Nine, as if set forth more fully herein.

36. The Plaintiff owns the dwellings located at 6 Morgan Street and 8 Morgan Street.

37. Morgan Street is a road which service4s these two (2) homes since they were built back in the 1930s and 1950s.

38. The Plaintiff, its predecessor's in title and their tenants and residents of Morgan street, re-pass, park and use Morgan Street openly, notoriously and continuously to the exclusion of the Defendant, Stoney Village, for over fifty (50) years.

39. The Plaintiff has utilities of water, sewer, cable, electric and natural gas all installed in or above Morgan Street servicing the Plaintiff's lots.

40. There is a fence at the terminus of Morgan Street that prohibits any travel past 8 Morgan Street and barriers the land of Stoney Village beyond the fence and excludes the Defendants use of the road bed.

41. The residences on Morgan Street are all situated on the easterly side of Morgan Street.

42. The westerly side of Morgan Street has no access to any properties.

43. The Plaintiff and his predecessor's in title building owners of Morgan Street have solely maintained, plowed, paved, cleared and used the area of this road bed.

44. The Defendant, Stoney Village, claims they may have ownership of Morgan Street in front of 6 and 8 Morgan Street.

45. The Plaintiff and their predecessor's in title have used this area of Morgan Street uninterrupted for over fifteen (15) years.

46. The Plaintiff seeks an easement over Morgan Street to use the roadway as public access to the Plaintiff's lands.

WHEREFORE, the Plaintiff seeks the following:

1. An Order clearing the cloud on title of the boundary line to reestablish the boundary line where it originally was located in accordance with the Henry Cotton map.
2. Injunction prohibiting the defendants from utilizing the Hartford Metropolitan District MDC sewer lines, which are located on the Plaintiff's property.
3. That the Defendants be enjoined from using the water lines from the MDC located on the Plaintiff's property that the defendants remove all sewer and water lines from the property and restore the property back to its original condition.
4. Plaintiff seeks a quieting of title with regard to the boundary lines and encroachments of sewer and water and injunction enjoining all of the defendants from utilizing the sewer lines and water lines.
5. An injunction that the Town of Granby cease and desist using the sewer and water lines crossing the Plaintiff's property.
6. Money damages.
8. Easement over Morgan Street to Plaintiff's use of the roadbed for traffic and utilities.
9. Injunction requiring side-yard buffering on the Defendant's property.
10. That the Court grant adverse possession to the Plaintiff over the road of Morgan Street up to its terminus at the bound of the Defendant.

PLAINTIFF,

BY

  
TIMOTHY BRIGNOLE, ESQ.  
BRIGNOLE BUSH AND LEWIS, LLC  
73 Wadsworth Street  
Hartford, CT 06106

RET. DATE: July 24, 2018 : SUPERIOR COURT

TIMOTHY BRIGNOLE, TRUSTEE OF  
THE KIMBERLY EDITH MAYRAND  
FAMILY TRUST, LLT : J. D. of HARTFORD

VS. : AT HARTFORD

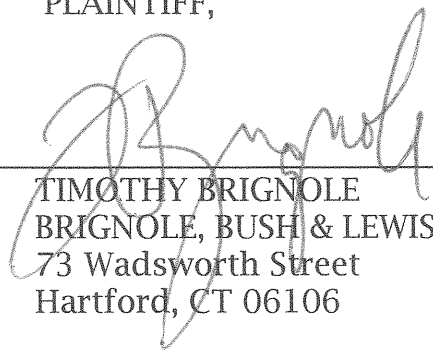
GRANBY HOMES FOR  
SENIOR-CITIZENS, INC., :  
UNITED STATES OF AMERICA :  
DEPARTMENT OF HOUSING AND URBAN :  
DEVELOPMENT and :  
TOWN OF GRANBY : June 18, 2018

**STATEMENT RE AMOUNT IN DEMAND**

The Plaintiff, in the above-entitled matter, represents that the amount, legal interest or property in demand, is greater than Fifteen (\$15,000.00) Thousand Dollars, exclusive of interest and costs.

PLAINTIFF,

BY

  
TIMOTHY BRIGNOLE  
BRIGNOLE, BUSH & LEWIS  
73 Wadsworth Street  
Hartford, CT 06106

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## VOLUME 320

## CORPORATE REAL ESTATE MORTGAGE FOR CONNECTICUT

THIS MORTGAGE is made this 17TH day of FEBRUARY 2005, by GRANBY HOMES FOR SENIOR CITIZENS, INC., a corporation, organized and existing under the laws of the State of Connecticut, whose mailing address is 259 Salmon Brook Street, Granby, Connecticut, (the Borrower).

The United States of America (the Government), having an office or place of business at 451 West Street, Amherst, Massachusetts 01002, has loaned the Borrower money as evidenced by one or more promissory note(s) or assumption agreements) (the Note) (if more than one note is described below, the word "Note" as used herein shall be construed as referring to each note singly or all notes collectively, as the context may require). The Note has been executed by the Borrower, is payable to the order of the Government in installments as specified therein, may provide for the deferral and capitalization of interest plus principal (described below as "Maximum Amount Financed"), authorizes acceleration of the entire indebtedness at the option of the Government upon any default by Borrower, and is further described as follows:

<u>Date of Instrument</u>	<u>Principal Amount</u>	<u>Annual Rate of Interest</u>	<u>Maximum Amount Financed</u>	<u>Due Date of Final Installment</u>
2-17-05	\$125,000	6%	\$125,000	2-17-35

The Government may assign the Note at any time. The Government may also insure the payment of the Note pursuant to the Consolidated Farm and Rural Development Act, or Title V of the Housing Act of 1949, or any other relevant statute.

This instrument shall secure payment of the Note whenever the Note is held either by the Government or by an uninsured holder. Whenever the Note is held by an insured holder, however, this instrument shall not secure payment of the Note or attach to the underlying debt. In that event, this instrument shall constitute an indemnity mortgage to secure any payments to an insured holder of the Note or other advances which the Government may be required to make upon default by the Borrower. The insured holder shall have no right, title or interest in or to the lien of this instrument or its benefits.

And this instrument also secures the Borrower's obligations and covenants under other instruments delivered in connection with the loan evidenced by the note, including the Borrower's Loan Resolution, and any deferral, reamortization, rescheduling or consolidation subsequent hereto. The Note, Loan Resolution, and this mortgage together with any supplements, attachments, modifications or additions are collectively referred to as the "Loan Instruments."

NOW THEREFORE, in consideration of the loan(s) the Borrower hereby mortgages, assigns, grants and conveys to the Government, the following property in Hartford County, Connecticut:

PARCEL ONE:

A certain piece or parcel of land, with the buildings thereon, situated in said Town of Granby, westerly and in the rear of Salmon Brook Street, and more particularly bounded and described as follows, to wit:

Beginning at a monument located N 67° 33' 35" W, a distance of two hundred ninety-one (291) feet from the westerly line of salmon Brook Street as measured along the northerly line of land now or formerly Claude W. Price, Jr. et al; thence running N 22° 26' 25" E along land now or formerly of the Town of Granby, two hundred four and thirty one-hundredths (204.30) feet; thence running N 42° 53' 04" W along land now or formerly of Herman Edelberg et al, two hundred fifty-nine and fifty-six one-hundredths (259.56) feet to a monument; thence running S 40° 56' 15" W along land now or formerly of Rosa A. Holcomb Comeau, twenty-nine and eight one-hundredths (29.08) feet to a monument; thence running N 43° 19' 55" W along said land now or formerly of Rosa A. Holcomb Comeau, one hundred forty-five and forty one-hundredths (145.40) feet to a monument; thence running N 40° 56' 15" E, twenty-nine and eight one-hundredths (29.08) feet to a point; thence running N 47° 30' 05" E, one hundred seventy-three and eighty-eight one-hundredths (173.88) feet to a point in the southerly terminus of Morgan Street; thence running N 37° 37' 20" W, and running along the



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southerly terminus of Morgan Street, forty-one and eighty one-hundredths (41.80) feet to a point in the northeasterly corner of land now or formerly of the Town of Granby; thence running S 43° 26' 10" W along land now or formerly of the Town of Granby, four hundred eighty-eight and thirty-four one-hundredths (488.34) feet to a point; thence running S 25° 17' 15" W along land now or formerly of Mildred C. Allison et al, one hundred twenty-six and thirty-six one-hundredths (126.36) feet; thence running S 59° 01' 35" E along land now or formerly of Carolyn C. Avery et al, five hundred eighteen and one one-hundredth (518.01) feet to the southwesterly corner of land now or formerly of Claude W. Price, Jr. et al; thence running N 22° 26' 25" E along said land now or formerly of Claude W. Price, Jr. et al, one hundred eight and twenty-eight one-hundredths (108.28) feet to the point or place of beginning;

PARCEL TWO

A certain piece or parcel of land, with the buildings thereon, situated in said Town of Granby, on the westerly side of Salmon Brook Street, and more particularly bounded and described as follows, to wit:

Beginning at a point on the westerly line of Salmon Brook Street at the southeasterly corner of land now or formerly of Herman Edelberg et al; thence running N 64° 30' 05" W, one hundred twenty-six and sixteen one-hundredths (126.16) feet; thence running N 42° 52' 35" W, one hundred sixty-seven and seventy-one one-hundredths (167.71) feet to a monument, the last two courses being along land now or formerly of Herman Edelberg et al; thence running S 22° 26' 25" W along land now or formerly of Mildred C. Allison et al, two hundred four and thirty one-hundredths (204.30) feet to the northwesterly corner of land now or formerly of Claude W. Price, Jr. et al; thence running S 67° 33' 35" E along said land now or formerly of Claude W. Price, Jr. et al, two hundred ninety-one (291) feet to the westerly line of Salmon Brook Street; thence running N 23° 57' 55" E along said westerly line of Salmon Brook Street, forty-two and thirty one-hundredths (42.30) feet; thence continuing northerly along said westerly line of Salmon Brook Street, eighty-six and ninety one-hundredths (86.90) feet to the point or place of beginning;

Excluding from said parcel to a piece or parcel of land containing .02 acres more or less as described in a deed from Granby Homes for Senior Citizens, Inc. to the State of Connecticut dated February 28, 1979 and recorded in Volume 106 at Page 170 of the Granby Land Records.

PARCEL THREE

A certain piece or parcel of land, situated in Granby, Connecticut, shown as "Land within shaded area to be deeded to Granby Homes for Senior Citizens by Town of Granby Area = 28,429+/- feet or 0.653+/- acres" on a map entitled: "Plan of land to be deeded to Granby Homes for Senior Citizens By Town of Granby, Granby, Connecticut R-A Zone Scale 1" = 20' Date Dec. 1986 Rev. 1-16-1987 Westerly PL Henry Charles Cotton Consultant & Land Surveyor 81 East Granby Rd. Granby, Conn. 06035", which map is on file in the Town Clerk's Office of Granby, and being more particularly bounded and described as follows:

Northerly,	by land now or formerly of the Grantor herein, on said map, 40.24 feet;
Easterly	by land now or formerly of the Grantee herein, on said map, 180 feet;
Northeasterly	by land now or formerly of the Grantee herein, on said map, 126.36 feet;
Southerly	by land now or formerly of Allison and Avery, on said map, 120 feet;
Westerly	by other land of the Grantor herein, on said map, 121.13 feet;
Northwesterly	by land now or formerly of the Grantor herein, on said map, 111 feet;
Northwesterly,	
Again,	by land of the Grantor herein, being a curved line, on said map, 90.82 feet.

All corners being marked by iron pins.

TOGETHER with all the improvements, tenements and appurtenances now or hereafter erected on the property, and all easements, rents, royalties, mineral, oil and gas rights and profits, water, water rights, and water stock, all leasehold rights of any kind, and all fixtures now or hereafter attached to or used in connection with the property, including, but not limited to, those for the purposes of supplying or distributing heating, cooling, electricity, natural gas, water, air and